

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1362

United States of America,

Appellee,

v.

Sherri M. Sotherland,

Appellant.

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Appeal from the United States
District Court for the
Eastern District of Arkansas.

[UNPUBLISHED]

Submitted: June 3, 2003

Filed: June 9, 2003

Before LOKEN, Chief Judge, MURPHY, and RILEY, Circuit Judges.

PER CURIAM.

Sherri M. Sotherland pleaded guilty to one count of knowingly and willfully executing a scheme to defraud a financial institution, in violation of 18 U.S.C. § 1344. The district court¹ sentenced her to 10 months imprisonment and 5 years supervised release, and to pay restitution of \$21,467.94. On appeal, counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), raising the following issues: whether she was afforded her right of allocution,

¹The HONORABLE GEORGE HOWARD, JR., United States District Judge for the Eastern District of Arkansas.

whether the restitution order was proper, and whether the district court should have departed downward.

These issues lack merit. The sentencing transcript shows that Sotherland was afforded her right of allocution, see United States v. Kaniss, 150 F.3d 967, 969 (8th Cir. 1998); the district court properly established a payment schedule for the ordered restitution, cf. United States v. McGlothlin, 249 F.3d 783, 784-85 (8th Cir. 2001) (remanding restitution order where sentencing court failed to establish schedule of restitution payments); and we do not review the district court's decision not to depart because there is no indication that it was unaware of its authority to do so, see United States v. Koons, 300 F.3d 985, 993-94 (8th Cir. 2002).

We have reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), and we find no nonfrivolous issues. Accordingly, we grant counsel's motion to withdraw, and we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.